

Case # 9:05-cv-00051-WKW  
2:05-CV-652-WKW



**UNITED STATES DEPARTMENT OF EDUCATION**

OFFICE FOR CIVIL RIGHTS  
61 FORSYTH STREET, SW  
SUITE 19T70  
ATLANTA, GEORGIA 30303  
TELEPHONE: (404) 562-6350

FAX: (404) 562-6455  
TDD: (404) 562-6454

**JUN 22 2005**

Email: Atlanta\_ocr@ed.gov

Mr. Calvin Scott, Sr.  
1416 Marler Road  
Pike Road, Alabama 36064

Dear Mr. Scott:

Re: Complaint #04-05-3004

On February 7, 2005, the U. S. Department of Education (Department), Office for Civil Rights (OCR), received the above-referenced complaint filed against the Business Enterprise Program (BEP), a part of the Alabama Department of Rehabilitation Services (DRS), which alleged discrimination on the basis of disability. Specifically, you (complainant), a blind vendor, alleged that the DRS/BEP:

- Denied you the following accommodations to work in the Gordon Persons building (GPB): (1) access to one of your vending machines when you were not given a security swipe card; and (2) a handicapped parking space on the dock area of GPB;
- Denied you an administrative review when you complained about the denial of accommodations.
- Required you to replace your wife who acted as your driver/assistant, and by giving you only three days to replace her.
- Removed you as vendor from the GPB.

OCR is responsible for enforcing Section 504 of the Rehabilitation Act of 1973 (Section 504), as amended, 29 U.S.C. Section 794, and its implementing regulation, 34 C.F.R. Part 104, which prohibit discrimination on the basis of disability in any program or activity receiving Federal financial assistance; and Title II of the Americans with Disabilities Act of 1990 (Title II), 42 U.S.C. Sections 12131 et seq., and its implementing regulation, 28 C.F.R. Part 35, which prohibit discrimination on the basis of disability by a public entity. The DRS is a public entity and a recipient of Federal financial assistance, and, therefore, is subject to the provisions of Section 504 and Title II.

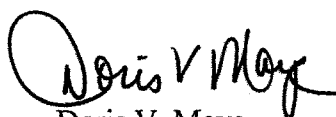
Mr. Calvin Scott  
Page 2

During the course of the investigation, DRS and the complainant informed OCR that DRS had taken actions to resolve the complainant's allegations. OCR, therefore, will take no further action with respect to the allegations in this complaint and it is closing this complaint as of the date of this letter.

This letter of findings should not be construed as covering any other issues regarding compliance with Section 504 and Title II that may exist and are not addressed herein. Please note that under the Freedom of Information Act, it may be necessary to release this document and related correspondence and records upon request. If we receive such a request, we will seek to protect, to the extent possible, any unwarranted invasion of privacy. The complainant may file a private suit pursuant to section 203 of the Americans with Disabilities act, whether or not OCR finds a violation to Title II.

If you have any questions, please contact Ms. Debra Steadman, Equal Opportunity Specialist, at 404-562-6381, or me, at 404-562-6419.

Sincerely,

A handwritten signature in black ink, appearing to read "Doris V. Maye". The signature is fluid and cursive, with the first name "Doris" being the most prominent part.

Doris V. Maye  
Team Leader



Bob Riley  
GOVERNOR

Alabama Department of  
**REHABILITATION SERVICES**

February 22, 2005



Steve Shivers  
COMMISSIONER

Mr. Calvin Scott  
1416 Marler Road  
Pike Road, AL 36064

Dear Mr. Scott:

The intent of this letter is to advise you of your removal from Facility #562 at the Gordon Persons Building. The exit inventory will take place on Thursday, February 24<sup>th</sup> at 10:00 a.m. I strongly encourage you or your designee to participate, however, should you choose not to participate the inventory will be conducted as scheduled.

On February 9, 2005 you were advised of the changes required for your continued conditional employment at Facility #562. Your program representative, Kenneth Green, has informed us in writing "that they (Calvin and Gladys Scott) stated that Calvin would not do it with anyone other than Gladys." You also stated to Mr. Green "that you had not hired anyone to do so" (service the machines).

Your failure to comply with the requirements of the BEP General Rules, Agreement to Operate a Vending Facility and the terms of my letter of February 9, 2005 have left me with no option but to replace you.

From all appearances the approximately 20 snack machines you are responsible for have not been serviced since February 11, 2005. This inaction on your part is tantamount to abandonment of your facility and will not be tolerated. Your recent dereliction of duty has cast the program in a most unfavorable light. Additionally, your customers are not receiving the service they desire and deserve.

Sincerely

*Ray Dennis*

Ray Dennis, Director  
Business Enterprise Program

**PROVIDING SERVICES TO ALABAMIANS WITH DISABILITIES**

P.O. Box 11586 ■ 2129 E. South Blvd. ■ Montgomery, AL 36111-0586 ■ 334-281-8780 ■ 1-800-441-7607  
Fax: 334-613-2239 ■ [www.rehab.state.al.us](http://www.rehab.state.al.us)

## Business Enterprise Program



Bob Riley  
GOVERNOR

Alabama Department of  
**REHABILITATION SERVICES**

February 9, 2005



Steve Shivers  
COMMISSIONER

State of Alabama  
Department of Finance  
James (Buddy) Swearengin  
Plant Maintenance Supervisor  
Gordon Persons Building  
50 North Ripley Street  
Montgomery, AL 36130

Dear Mr. Swearengin:

Please accept this letter as our mutual understanding of the requirements of blind vendor, Mr. Calvin Scott, to continue as vending provider at the Gordon Persons Building.

- Mrs. Gladys Scott, current employee, is no longer approved by our agency as an assistant/driver for our blind vendor.
- Mr. Scott will retain a new assistant/driver approved by our agency.
- Mr. Scott and his employee will cooperate with building management and comply with all security protocols required to enter restricted areas.
- Mr. Scott will work with Mr. Ken Green, Business Enterprise Program Representative, to develop a more streamlined, efficient, and customer friendly mode of refunding lost money.

Mr. Swearengin, thank you for your rescission of the request to remove Mr. Scott and your agreement to our plan for his conditional continued employment. Additionally, your many years of support for our employment program for blind Alabamians is greatly appreciated.

Sincerely,

Ray Dennis, Director  
Business Enterprise Program

cc: Mr. Joe Helm  
Perry Hopper  
Ken Green

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Bob Riley  
GOVERNOR

Alabama Department of  
**REHABILITATION SERVICES**



Steve Shivers  
COMMISSIONER

February 14, 2005

Mr. Calvin Scott  
1416 Marler Road  
Pike Road, AL 36064

Dear Mr. Scott,

Please accept this as my personal appeal to you not to continue to utilize your current employee, Mrs. Gladys Scott, at your job site and to comply with the requirements of my letter dated February 9, 2005.

You have initiated the grievance process in accordance with the General Rule and it is appropriate and prudent for you to do so. Let this process proceed before you violate the terms of my letter. I am convinced our program will have no option but to remove you from your location.

Please accept this not as a threat but in the spirit in which it is written. You have many years of successful work in the Business Enterprise Program, and I sincerely hope this will continue for many years to come. However, I am alarmed that you will jeopardize your career by refusing to make the changes outlined in my letter.

Please reconsider your decision and continue with the grievance process.

Sincerely,

A handwritten signature in black ink, appearing to read "Ray Dennis".

Ray Dennis, Director  
Business Enterprise Program

cc: Mr. Joe Helm  
Perry Hopper  
Ken Green  
Steve Simpson

**PROVIDING SERVICES TO ALABAMIANS WITH DISABILITIES**

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Alabama Department of  
**REHABILITATION SERVICES**

February 9, 2005



Bob Riley  
GOVERNOR

Steve Shivers  
COMMISSIONER

Mr. Calvin Scott  
1416 Marler Road  
Pike Road, AL 36064

Dear Mr. Scott,

Please find enclosed a letter we received on February 7, 2005, from Mr. James (Buddy) Swearingin requesting your removal as blind vendor at the Gordon Persons Building. Also, enclosed is a letter dated February 9, 2005, that outlines the changes required for your continued conditional employment at your vending facility.

Note these requirements are non-negotiable and represent actual changes that must occur as a condition of your continued employment.

- Mrs. Gladys Scott, your current employee, is no longer approved by our agency as an assistant/driver for you and must be replaced.
- You will retain a new assistant/driver that is approved by our agency.
- You and your employee will cooperate with building management and comply with all security protocols required to enter restricted areas.
- You will work with Mr. Ken Green, Business Enterprise Program Representative, to develop a more streamlined, efficient, and customer friendly mode of refunding lost money.

I am hopeful that you will initiate these changes immediately and continue vending services in a professional and successful manner.

Please advise your representative, Mr. Ken Green, as to your plans so that he may render his assistance, or schedule your exit inventory and replacement in a prompt manner.

Sincerely,

*Ray Dennis*

Ray Dennis, Director  
Business Enterprise Program

Enc. 2

cc: Mr. Joe Helm  
Perry Hopper  
Ken Green

**PROVIDING SERVICES TO ALABAMIANS WITH DISABILITIES**

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Fax: 334-613-2239 ■ [www.rehab.state.al.us](http://www.rehab.state.al.us)



Case # J.D.5-CV-0511-WKW-CSC



STATE OF ALABAMA  
DEPARTMENT OF FINANCE

DIVISION OF SERVICES

Gordon Persons Building  
50 North Ripley Street  
Montgomery, Alabama 36130  
Telephone (334) 242-8425  
Fax (334) 353-3070

BOB RILEY  
Governor

JAMES ALLEN MAIN  
Director of Finance

SEARCY M. RUSHING  
Chief of Services

JAMES (BUDDY) SWEARENGIN  
Building Manager

Kenneth Green  
Alabama Department of Rehabilitative Services  
2127 East South Boulevard  
Montgomery, Alabama 36116-2458

Mr. Green:

I have always enjoyed our conversations and your visits to the Gordon Persons Building. However, this letter will not be as pleasant as our usual conversations.

I am asking that the vendors supplying our snack machines be removed from our building. The Scotts are high tempered, as well as unreasonable. They don't attempt to work with Building Management, and have the attitude "it's their way, or no way at all."

There have been incidents where the Scotts have threatened to bring a gun and shoot personnel, and I have continuous complaints with them not refunding money from the machines. I can supply names if needed, in this case. The most recent incident where the Scotts refused to work with Building Management has prompted me to make this request.

The employees and visitors alike in the Gordon Persons Building deserve a safe and pleasant environment. I do not feel as if this can be accomplished with the Scotts servicing this building.

I am asking that the Scotts be removed from this building within three (3) days of receipt of this letter.

I hope to continue to work with Rehabilitative Services in the future, and know that you have pleasant personnel working under your supervision.

If I can be of any help, please feel free to contact my office.

Sincerely,

A handwritten signature in black ink, appearing to read "James Swearengin".  
James (Buddy) Swearengin  
Plant Maintenance Supervisor

RECEIVED  
FEB 07 2005  
BEP



*Division  
of  
Service*

*State of Alabama  
Department of Finance  
Gordon Persons Building  
50 North Ripley St., Montgomery, Alabama 36130  
(205) 242-8425*

DONALD S. DRABLOS  
Chief of Service

JAMES (BUDDY) SWEARENGIN, JR.  
Building Manager

# MEMORANDUM

TO: Ken Green

FROM: James Swearengin, Jr., Manager  
Gordon Persons Building

SUBJECT: Parking Problems

I know that you are aware of the parking problem that I am having with Calvin and Gladys Scott. I have attached a copy of a letter that Mrs. Scott gave me.

I, personally, am insulted with this letter. I have been more than fair with the Scotts about parking in the loading dock area. I have explained to yourself and the Scotts that this area is not a parking area, but for loading and unloading only. I have explained that I would allow them to park in the area under the security guards supervision. The Scotts have not been able to work under these conditions and are still insisting that I assign them special privileges for parking.

The Scotts and my security guard have had words due to their not wanting to park where instructed. Mr. Calvin Scott has threatened Mr. Morris with bodily harm. I do take this type of threat seriously. Mr. Scott is of mature age to know better than to threaten someone with this type of threat.

Their actions and continuous problems have put me in a position to take some type of action against this unstable matter. If something serious were to happen due to this above threat I would have known about the problem in advance and could be held responsible.

I am now asking that the Scotts be reassigned another building to do their business in. The Gordon Persons Building is no longer going to be stable as long as they are entering the building.

I thank you and your people for their good service in this building and hope that we can continue to work together in a friendly atmosphere.

JHS/ay



Case # 2:05-cv-00651  
2:05-cv-00651

January 28, 1996

Gladys Scott  
1689 Marler Road  
Pike Road, Al 36064

TO: Mr. James Swearingin

I am writing you pertaining to our conversation on January 23, 1996 about the problem my husband (Calvin Scott), the blind vendor, and I are having from Fred Morris, the security guard.

My husband, Calvin Scott, asked you for a handicap parking space in the loading dock. Your answer was no, because God said there should be no respect of person, and if you do, you would be respecting person.

Behold, the Lord, our God, spoke these words:

1. "Ye shall do no unrighteous in judgement: thou shalt not respect the person of the poor, nor the mighty: but in righteousness shalt thou judge thy neighbour." (Lev. 19:15)
2. "Thou shalt not curse the deaf, nor put a stumbling block before the blind, but fear thy God: I am the Lord." (Lev. 19:14)
3. "Ye shall not respect persons in judgement; but ye shall hear the small as well as the great; ye shall not be afraid of the face of man; for the judgement is God's: and the cause that is too hard for you, bring it unto me, and I will hear it." (Deut. 1:17)
4. "Cursed be he that maketh the blind to wander out of the way and all the people shall say, Amen." (Deut. 27:18)
5. "Cursed be he that confirmeth NOT all the words of this law to do them, and all the people shall say, Amen." (Deut. 27:26)
6. "Blessed are they that hear the word of God, and keep it." (Luke 11:28)

In Christ (Gen. 2:24),

Gladys Scott

Gladys Scott wife of Calvin Scott  
(Blind Vendor)